

State of New Jersey
Department of Labor and Workforce Development
Board of Review

MEMORANDUM

To: Cornelia Calderone, Chair, Joseph Sieber,
Vice Chairman, and Frank Serico, Member

From: Gerald Yarbrough, Executive Secretary
Board of Review

Subject: Minutes of the October 4, 2006
Board of Review Meeting

Date: October 5, 2006

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO CHANGE OR MODIFICATION BY THE BOARD OF REVIEW AT ITS NEXT MEETING. NO DECISION OF THE BOARD OF REVIEW IS FINAL UNTIL IT HAS BEEN MAILED TO THE INTERESTED PARTIES.

1. **FORMAL OPENING:** A regular meeting of the Board of Review, Department of Labor was held on Wednesday, October 4, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey. Notice of said meeting was posted in the Board of Review's office, filed with the Secretary of State, and published annually in *The Trenton Times* and *The Star Ledger*. It was noted that the next regular meeting of the Board of Review is scheduled for Wednesday, October 11, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey.

Roll Call: Present: Ms. Calderone, Chair
Mr. Sieber, Vice Chair
Mr. Serico, Member
Mr. Yarbrough, Executive Secretary

2. Following a motion by Ms. Calderone and seconded by Mr. Sieber, the minutes of the September 27, 2006 meeting were approved.

3. Old Business

(a) 116,750

Mr. Sieber presented this case that involved a claimant who was working during the same period he received unemployment benefits. The Appeal Tribunal had held the claimant liable for refund, a fine, and a one year disqualification from receiving benefits. The Board noted that the record was lacking and voted to hold a hearing. Mr. Sieber will conduct the hearing.

(b) 116,646.

Ms. Futterman described this case that involved a claimant who was laid off when her job moved to another country. Her former employment was considered adversely affected employment and covered by the Trade Act. The claimant applied for and received unemployment benefits. She found other work prior to exhausting her unemployment benefits. She was separated from that work and held disqualified for unemployment benefits as a result of the separation. The Appeal Tribunal had held the claimant ineligible for Trade Readjustment Allowance (TRA) benefit as she did not exhaust the unemployment benefits. The Board noted that the record was lacking regarding the claimant's entitlement to a waiver as well as Trade Adjustment Assistance (TAA). Also there is a need for the Appeal Tribunal to consider documents from the U.S. Department of Labor. As a result, the Board voted to remand the case for additional testimony from the claimant and division. Ms. Futterman will prepare the remand.

4. New Business**(a) 114,714**

As presented by Ms. Futterman, this case involved a claimant who left work with a temporary help agency to accept permanent work. The job did not materialize after the claimant left. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a). After discussion, the Board voted to affirm the Appeal Tribunal.

(b) 112,811

As described by Ms. Futterman, this case involved a claimant who was discharged by the employer. The Appeal Tribunal had held the claimant disqualified for benefit under N.J.S.A. 43:21-5(b). The Board noted that the claimant did not receive "due process" as she was not allowed to hear testimony of a witness. As a result, the Board voted to remand the case to another Appeal Tribunal for a "de novo" hearing. Ms. Futterman will prepare the remand.

(c) 118,255

Ms. Gagliardo presented this case that involved a claimant who did not return to work from a medical leave of absence. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a). After discussion, the Board voted to rewrite the decision, affirming the conclusion reached by the Appeal Tribunal, noting that the claimant did not present medical documentation that she was unable to work. Ms. Gagliardo will prepare the decision.

(d) 118,862

Mr. Maddow described this case that involved a claimant who left work voluntarily because she was dissatisfied with the behavior of the employer. The Appeal Tribunal had held the claimant not disqualified for benefits under N.J.S.A. 43:21-5(a). The Board noted that the claimant's reason did not constitute good cause attributable to the work for leaving. As a result, the Board voted to reverse the Appeal Tribunal. Mr. Maddow will prepare the decision.

(e) 119,670

As presented by Mr. Gitter, this case involved a claimant who did not return to work after a medical leave of absence. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a). The Board noted that the claimant did not present any medical documentation that he remained unable to work. After discussion, the Board voted to affirm the Appeal Tribunal.

There being no further business to transact, a motion was made by Mr. Sieber to adjourn the meeting. Mr. Serico seconded the motion.

SUBMITTED FOR APPROVAL:

Gerald Yarbrough
Executive Secretary

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